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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/585,520	05/13/2009	Hans-dieter Bothe	10191/4373	4505
26646 7590 08/09/2011 KENYON & KENYON LLP ONE BROADWAY NEW YORK, NY 10004				
EXAMINER BRYANT, MICHAEL C				
ART UNIT 2884		PAPER NUMBER		
MAIL DATE 08/09/2011		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/585,520

Applicant(s)

BOTHE ET AL.

Examiner

CASEY BRYANT

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2884

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 February 2009 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTC-942)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 7/7/06
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Priority

1. The Applicant's claim to foreign priority under 35 USC § 119(a)-(d) or (f), or 365(b) of German Application 10 2004 001 425.6 is recognized.

Information Disclosure Statement

2. The information disclosure statement (IDS) filed 07/07/2006 has been considered.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 12-15, 17, 22-25 and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Maurinus (European Pub. 0585186).

Regarding claims 13, 22, 23 and 25, Maurinus discloses a device comprising an optical sensor (assembly 10), the sensor 10 comprising:

- an optical element (image receiving surface 24);
- a housing (enclosure 15) enclosing the element 24;
- a lens system (lens element 20), the element 24 operating with the lens system 20, wherein the lens system 20 of the device is an integral component of the housing 15 of the device (Figures 1-4; col. 6, line 9 – col. 8, line 15).

Regarding claims 14, Maurinus discloses the functional element as a radiation sensitive sensor surface designed to detect visible light (abstract; col. 1, lines 28-48).

Regarding claims 15, 24 and 27, Maurinus discloses a device capable of being used in a motor vehicle (abstract).

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Regarding claim 17, the manner in which the device is composed is not germane to the issue of patentability of the device. Specifically, the recitation that the lens system is made using injection molding technology does not structurally limit the claim and thus does not patentably distinguish the claim (col. 2, lines 5-18).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Maurinus (EP 0585186) in view of Marman et al. (US Patent 5026990).

Regarding claim 16, Maurinus discloses a device comprising a lens system but does not disclose the lens system as transparent to near infrared radiation and opaque to visible light. In view of the ability to thermally image a region of interest under low light conditions in an intrusion detection system as taught by Marman, it would have been obvious to one of ordinary skill in the art at the time of the invention to use in the device of Maurinus.

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8. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Maurinus (EP 0585186) in view of Rothley et al. (US Patent 6710348).

Regarding claim 18, Maurinus does not disclose the housing part as part of an interior lining of a motor vehicle. Rothley discloses a IR sensing device arranged in the interior of a motor vehicle. In view of ability to monitor the presence of passengers in the vehicle for safety purposes as taught by Rothley, it would have been obvious to one of ordinary skill in the art at the time of the invention to use in the device of Maurinus. It further would have been obvious to arrange the sensor device on an interior lining of the vehicle so as to secure the sensor in a position suitable for viewing the entire compartment.

9. Claims 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maurinus (EP 0585186).

Regarding claims 19 and 20, Maurinus discloses a optical device comprising a housing, lens, and sensing element, but does not specify the device as a light source. Maurinus discloses a prior art IC element having a lens comprising an LED as an active optical element (col. 3, lines 20). In view of the compact, low cost, and integrated light source provided by the LED as taught by Maurinus, it would have been obvious to one of ordinary skill in the art at the time of the invention to use in the Maurinus embodiments.

Regarding claim 21, Maurinus does not disclose the LED as emitting infrared light. However, it would have been obvious to one of ordinary skill in the art at the time of the invention to choose an infrared LED based on the desired application for the device, and since IR LEDs are well known in the art.

10. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Maurinus (EP 0585186) in view of Eggers et al. (US Pub. 20060038885).

Regarding claim 26, Maurinus does not disclose providing a stereo camera system. Eggers discloses an infrared stereo camera system for use in a motor vehicle for tracking

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objects in a operator environment (0004, 0012). In view of the ability to electronically identify objects at night using infrared stereo imaging as taught by Eggers, it would have been obvious to one of ordinary skill in the art at the time of the invention to use in the device of Maurinus.

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CASEY BRYANT whose telephone number is (571)270-1282. The examiner can normally be reached on Monday - Friday, 8am - 5pm, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Porta can be reached on (571)272-2444. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/C. B./
Examiner, Art Unit 2884

/David P. Porta/
Supervisory Patent Examiner, Art
Unit 2884